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EXAMINER	
GREENE, DANIEL L	

ART UNIT	PAPER NUMBER
3621	

DATE MAILED: 09/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/671,643	ABBURI, RAJASEKHAR
	Examiner	Art Unit
	Daniel L. Greene	3621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *01 June 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *82-97* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *82-97* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 6/1/2004 have been fully considered but they are not persuasive. The Applicant states, " ... the Schull reference provides no specific method or system for identifying the first customer during the purchase by the second customer, and provides no specific method or system for crediting the first customer based on the purchase of the second customer." A reference is to be considered not only for what it expressly states, but also for what it would reasonably have suggested to one of ordinary skill in the art. *In re DeLisle, 160 USPQ 806 (CCPA 1969)*

Schull, reasonably suggests identifying the first customer during the purchase by the second customer by, "Another object of the present invention is to provide a means of rewarding people who redistribute and promote the sale of software" Col. 4, lines 18-20 and "In this way, the vending system could collect all of the information needed for the lineage analysis and associate it with customer information which would facilitate commission-payments, correlative analysis of the lineage data, etc. The data for subsequent analysis would thus accumulate conveniently in a central database. Col. 7, lines 15-29. Schull inherently discloses "system for identifying the first customer during the purchase by the second customer, and provides a method for crediting the first customer based on the purchase of the second customer." Any system or method that facilitates commission-payments must inherently identify the parties involved in a transaction.

The Applicant further states that Schull does not disclose the terms licensor and issuing digital licenses. PTO's guidelines for examining claimed language require: the examiner must make a determination, whether the claimed language " as a whole" would have been obvious at the time of the invention to one of ordinary skill in the art. See MPEP 2142. In these pending claims, the examiner submits that particular language does not serve as a limitation on the claim (i.e., " licensor and licenses"). The function of the Central Password Dispensing service is the same as a licensor and, the function of the password is the same as a license. Substituting Central Password Dispensing service for licensor and password for license in the proposed application would accomplish the same results without changing the original method or concept.

The examiner recognizes that references cannot be arbitrarily combined and that there must be some reason why one skilled in the art would be motivated to make the proposed combination of primary and secondary references. *In re Nomiya,* 184 USPQ 607 (CCPA 1975). However, there is no requirement that a motivation to make the modification be expressly articulated. The test for combining references is what the combination of disclosures taken, as a whole would suggest to one of ordinary skill in the art. *In re Simon,* 174 USPQ 114 (CCPA 1972); *In re McLaughlin,* 170 USPQ 209 (CCPA 1971). References are evaluated by what they suggest to one versed in the art, rather than by their specific disclosures. *In re Bozek,* 163 USPQ 545 (CCPA 1969). The secondary reference Koppelman was used to further clarify the concept presented by Schull in reference to rewarding people who distribute and promote the sale of software. Col. 4, lines 18-20.

One cannot show non-obviousness by attacking the references individually where the rejection is based on a combination of references. *In re Young, 159 USPQ 725 (CCPA 1968).* The secondary reference Koppelman was used to further clarify the concept presented by Schull in reference to rewarding people who distribute and promote the sale of software. Col. 4, lines 18-20. As stated by the Applicant, Koppelman does not address the issue of licensing which was addressed by the primary reference Schull.

Claims 82-97 are pending in the present application.

1. Claims 82-91, 93, and 96-97 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schull, U.S. Patent 6,266,654 (Schull), and further in view of Koppelman et al. U.S. Patent 6,662,164 [Koppelman].

As per claims 82, 85, 88, and 96:

Schull discloses:

the licensor receiving a first license request for a first license from a first customer in connection with the content and issuing a first license in response thereto, the first customer having received a copy of the content from the retailer, the first request including retailer information associated with the corresponding piece of digital content and identifying the retailer; Col. 7, lines 1-10.

the licensor receiving a payment from the first customer in connection with the first license request. Col. 7, lines 1-10.

the licensor retrieving the retailer information from the first license request and identifying the retailer therefrom; Col. 7, lines 30-60.

the licensor crediting the identified retailer for a portion of the payment received in connection with the first license request; Col. 7, lines 30-60.

the licensor receiving a second license request for a second license from a second customer in connection with the content and issuing a second license in response thereto, the second customer having received a copy of the content from the first customer, the second request including first customer information associated with the corresponding piece of digital content and identifying the first customer; the licensor receiving a payment from the second customer in connection with the second license request; Col. 7, lines 30-60.

the licensor retrieving the first customer information from the license request and identifying the first customer therefrom; Col. 7, lines 30-60.

Schull discloses the claimed invention except for the licensor crediting the first customer for a portion of the payment received in connection with the second license request. However, Schull does disclose offering purchasers a commission on sales derived from their own purchased copy of a given product. Col. 7, lines 30-35. Koppelman teaches that it is known in the art to provide a commission for creating sales. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the offering to purchasers a commission on sales

derived from their own purchased copy of a given product of Schull with the method and apparatus for determining a commission of Koppelman, in order to provide the ability to promote sales and determine Commissions and amounts payable to sales representatives.

As per claims 83, 86 and 89:

Schull discloses the claimed invention except for wherein crediting the first customer comprises recording the first customer information in a database for accounting purposes, the database including an entry for each first customer information, each entry including a count for counting the number of times a license has been issued for the specific first customer information combination, such recording comprising: finding the first customer information entry in the database corresponding to the first customer information of the second request, or creating such sub-entry if none is present; and incrementing the count in such entry. However, Schull does disclose offering purchasers a commission on sales derived from their own purchased copy of a given product. Col. 7, lines 30-35.

Koppelman teaches that it is known in the art to provide wherein crediting the first customer comprises recording the first customer information in a database for accounting purposes, the database including an entry for each first customer information, each entry including a count for counting the number of times a license has been issued for the specific first customer information combination, such recording comprising: finding the first customer information entry in the database

corresponding to the first customer information of the second request, or creating such sub-entry if none is present; and incrementing the count in such entry. Fig. 6.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the offering to purchasers a commission on sales derived from their own purchased copy of a given product of Schull with the method and apparatus for determining a commission of Koppelman, in order to provide the ability to determine Commissions and amounts payable to sales representatives.

As per claims 84, 87 and 90:

Schull discloses the claimed invention except for the wherein crediting the identified first customer comprises crediting the first customer according to the count in the entry. However, Schull does disclose offering purchasers a commission on sales derived from their own purchased copy of a given product. Col. 7, lines 30-35. Koppelman teaches that it is known in the art to provide wherein crediting the identified first customer comprises crediting the first customer according to the count in the entry. Col. 7, lines 12-22.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the offering to purchasers a commission on sales derived from their own purchased copy of a given product of Schull with the method and apparatus for crediting the identified first customer comprises crediting the first customer according to the count in the entry of Koppelman, in order to provide the

ability to promote sales and determine Commissions and amounts payable to sales representatives.

As per claims 91 and 93:

Schull further discloses:

wherein receiving the second license request comprises receiving the second license request as addressed to a site identified by a site identifier, the site identifier including the content distribution information attached thereto, and wherein retrieving the content distribution information comprises retrieving the content distribution information as attached to the site identifier. Col. 7, lines 1-20.

As per claim 97:

Schull further discloses:

wherein the second customer is not the first customer. Col. 7, lines 30-60.

2. Claim 92 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schull and Koppelman as applied to claims 82-91 above, and further in view of Krishnan et al. U.S. Patent 6,073,124 [Krishnan].

Schull discloses the claimed invention except for the issuing the license to the second customer. Krishnan teaches that it is known in the art to issuing the license to the second customer. Fig. 4, Col. 9-10, lines 1-67.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the vending system of Schull with the issuing the license to the second customer of Krishnan in order for the new customer to utilize the purchased software and to prevent pirating of the software.

3. Claims 94 and 95 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schull and Koppelman as applied to claims 82-91 above, and further in view of Powell, U.S. Patent 2001/0032189 A1 [Powell].

4. Schull and Koppelman discloses the claimed invention except for the wherein the payment comprises a non-monetary payment. Powell teaches that it is known to have barter transactions. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use non-monetary transactions as taught by Powell, since Powell states at Para. 0196, that not all transactions require the transfer of money from user to originator.

As per Claim 95:

Schull and Koppelman discloses the claimed invention except for wherein the payment is selected from a group consisting of earned credits, barter chits, a promise to perform a function, and combinations thereof. Powell teaches that it is known to have barter transactions. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use earned credits, barter

chits, a promise to perform a function and combinations thereof to conduct non monetary transactions as taught by Powell, since Powell states in Para. 0196, that not all transactions require the transfer of money from user to originator and, a user may propose to employ originator or to perform services in exchange for the right to use the originators FDI (license).

5.

Examiner's Note: Examiner has cited particular columns and line numbers in the references as applied to the claims below for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel L. Greene whose telephone number is 703-306-5539. The examiner can normally be reached on M-Thur. 8am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James P. Trammell can be reached on 703-305-9768. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

8/31/804

DLG

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